

REMARKS/ARGUMENTS

Claims 18 and 19 have been amended to be cast in independent form in view of the examiner's rejection under 35 USC §112, second paragraph, as set out in page 2.2 of the official action dated December 21, 2005. Specifically, the wording the Claim 1 has been incorporated into Claims 18 and 19.

With regard to the remarks made by the examiner on page 3, point 5 of the Office Action, Applicants wish to point out that the prior art shown in figure 2 of the instant application does not disclose a switching apparatus for providing hitless protection. Traffic hits are incurred by the prior art apparatus of figure 2 and this is clearly identified in the application as being the main problem with the prior art.

In the final paragraph of page 3 of the Office Action, the Examiner identifies the differences between prior art of figure 2 and the claimed invention and, in the final two lines of that paragraph, states that those differences are well known in the art and commonly used in protection switching arrangements to avoid a differential between delay in transmission paths. Applicants strongly disagree with this assertion. Applicants are not aware of any previous use of these features in relation to protection switching, nor do these features appear in any of the cited prior art references.

With regard to Smith (US Patent US 654,368), Applicants respectfully disagree with the Examiner that Smith teaches the use of frame identifiers (tags) that identify to which data frame a data element belongs. Rather, the identifiers, or tags, disclosed by Smith identify the position of the data element within its data frame (see the abstract, column 2 lines 10 to 14 and column 4, lines 52 to 57).

Moreover, Applicants respectfully disagree with the examiner that the Smith apparatus aligns respective data signals received on respective transmission paths by causing a selector mechanism to select between transmission paths by selecting

between a respective data element from each path wherein the associated identifiers of the respective data elements indicate that the selected data elements belong to the same data frame. Firstly, the Smith apparatus does not receive at a signal on more than one transmission path – there is only a single transmission path as indicated by the label “Data in”. Secondly, the Smith apparatus does not include a selector mechanism for selecting between transmission paths (since there only is one transmission path). Thirdly, the identifiers, or tags, disclosed by Smith do not identify data frames and so could not be used to select between respective data elements having identifiers indicating that they belong to the same data frame.

More generally, it is noted that the Smith disclosure does not relate to data protection at all but is concerned only with the processing of individual data elements once a given frame has been received by the apparatus. It is respectfully submitted therefore Smith does not disclose any of the features of Claim 1.

With regard to a combination of the teaching of Smith with the prior art acknowledged in the instant application and as illustrated in figure 2 of the instant application, it is emphasized that neither the prior art apparatus, nor Smith, discloses either of the following two features:

- a. Each data element is associated with an identifier that identifies to which data frame it belongs.
- b. The apparatus is arranged to align the respective data signals received on said transmission path by causing said selector mechanism to select between transmission paths by selecting between the respective data elements from each path wherein the associated identifiers of said respective data elements indicate that said respective data elements belong to the same data frame.

It is respectfully submitted therefore that the combined teachings of Smith and the acknowledged prior art could not lead a skilled person to the apparatus of Claim 1 since their combined disclosure does not disclose all of the features of Claim 1. Moreover, Smith is not related in any way to path protection and so would not prompt a skilled person to make any modifications of the acknowledged prior art.

It is respectfully submitted therefore that Claim 1 would not have been obvious over the combined teachings of Smith and the acknowledged prior art. For similar reasons, it is respectfully submitted that independent Claims 18, 19, 20 and 21 are both novel and non-obvious when compared to the combined teachings of Smith and the acknowledged prior art.

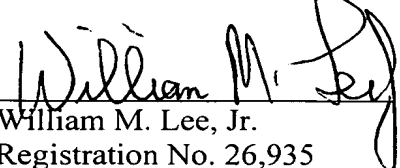
With regard to Russell (US Patent US 6,917,630), Russell is not concerned with path protection nor does it disclose frame identifiers associated with each data element. Therefore, Russell does not disclose the use of virtual concatenation overhead bits as frame identifiers. It is respectfully submitted that Russell does not make a disclosure which is relevant to the present invention. Rather, Russell relates to the technical field of container concatenation which is entirely separate from path protection.

Therefore, it is respectfully submitted that all of the dependent claims are also novel and non-obvious.

In view of the foregoing, timely allowance of the application is solicited.

March 21, 2006

Respectfully submitted,



William M. Lee, Jr.
Registration No. 26,935
Barnes & Thornburg
P.O. Box 2786
Chicago, Illinois 60690-2786
(312) 214-4800
(312) 759-5646 (fax)